

JOHN K. VAN DE KAMP  
Attorney General

State of California  
DEPARTMENT OF JUSTICE



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March 24, 1989

Ms. Patsy P. Phillips  
Chairperson, City of Fremont  
Human Relations Commission  
4353 Amador Road  
Fremont, CA 94538

Dear Ms. Phillips:

I am sorry to be so tardy in acknowledging your letter of February 14, 1989 regarding the resolution passed by the City of Fremont on investigation and resolution of crimes involving racism and prejudice. We are very pleased to hear of Fremont's aggressive action to address this serious problem. Please accept my congratulations on your hard work to assure that this happened.

Please let me know if we can be of any further assistance.

Enclosed for your information is a summary of civil rights/hate crimes legislation which may be of interest.

Very truly yours,

JOHN K. VAN DE KAMP  
Attorney General

*Marty Mercado*  
Marty Mercado  
Chief, Office of Community  
and Consumer Affairs

MM:dah

Enclosure

bcc: Marian Johnston



Ms. Patsy P. Phillips  
Chairperson, City of Fremont  
Human Relations Commission  
4353 Amador Road  
Fremont, California 94538  
February 14, 1989

Ms. Marty Mercedo  
Office of the Attorney General  
1515 K Street, Suite 371  
Sacramento, California 95814

Dear Ms. Mercedo:

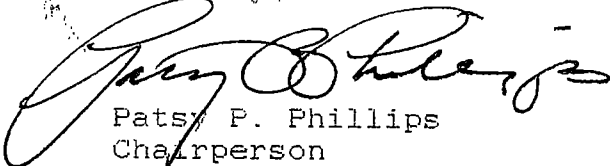
I am the Chairperson of the City of Fremont's Human Relations Commission.

I spoke with you several weeks ago, on January 23, 1989, in order to get an update on the Hate Violence issue in the State. The information you provided was very helpful.

The City of Fremont, City Council, passed a Hate Violence Resolution on January 24, 1989. In addition, our Police Department is now implementing new administrative directives regarding Hate Crime Investigations.

Again, thank you for all of your hard work in this area.

Sincerely,



Patsy P. Phillips  
Chairperson  
(415) 794-7411

RESOLUTION NO. \_\_\_\_\_

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
FREMONT PLACING HIGH PRIORITY ON THE  
INVESTIGATION AND RESOLUTION OF CRIMES  
INVOLVING RACISM AND PREJUDICE

WHEREAS, this nation was founded on the principles of equality, justice, and freedom for all; and

WHEREAS, racism, bigotry, prejudice, and other forms of hatred constitute a blight on our country and on humanity; and

WHEREAS, in spite of major strides in civil rights these evils persist as a detrimental force in our society and plague our nation; and

WHEREAS, the Fremont City Council is dedicated to insuring those fundamental freedoms upon which this great nation is founded.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Fremont, the following:

1. To place a high priority on the investigation and resolution of crimes involving racism and prejudice;
2. To actively work with other institutions within the City, County, and Bay Area to foster greater education and understanding of the value of human diversity;
3. To aggressively communicate that the Fremont community will not tolerate the evils of racism, violence, or bigotry.

*See memo*

ADOPTED \_\_\_\_\_ by the City Council of the City of Fremont by the following vote, to wit:

AYES:

NOES:

ABSTAINED:

ABSENT:

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

DRAFT

# Final

## Index:

Hate Crime Investigations  
Investigations of Hate Crimes

### I. POLICY

It is the policy of the Fremont Police Department to ensure that all residents of Fremont enjoy the right to live free of violence, vandalism, intimidation, or threats against their person or property which is motivated by their race, ethnicity, national origin, religion, or sexual orientation.

### II. PURPOSE

The purpose of this procedure is to outline the criteria for determining Hate Crimes, and to set down reporting and investigation procedures for incidents that are determined to be Hate Crimes.

### III. DEFINITIONS

A. Hate Crimes are defined as acts having criminal sanctions, directed at an individual, institution, or business expressly because of race, ethnicity, religion, or sexual orientation. Besides the criminal sanctions, a Hate Crime can also be a violation of a person's civil rights as enumerated in California Civil Code Section 51, 51.5, 51.7, or 52 which deal with discrimination, intimidation, personal rights and civil damages. Definitive guidelines for Hate Crime determination are as follows:

1. The Hate Crime must involve a specific target, such as an individual, residence, house of worship, religious or ethnic organization, or business.

2. Graffiti must be racial, ethnic, religious, or homophobic in nature, such as swastika, KKK, Nazi, or other Hate Group symbols or slogans, or involve the use of epithets.
3. Bigotry must be the central motive for the attack, rather than economics, revenge, etc. as in other kinds of crime.
4. Any assault against a person, in the absence of other apparent motivation, when initiated with racial, ethnic, religious, or homophobic epithets, will be considered to be a Hate Crime.
5. Vandalism to a house of worship, or ethnic, religious, or Gay and Lesbian organization will be considered a Hate Crime in the absence of evidence of other motives.
6. Obscene or threatening phone calls, when containing racial, ethnic, religious, or homophobic slurs, are considered Hate Crimes.

B. Although the following are of concern because they may reflect intergroup tension, they are not considered Hate Crimes because they are not aimed at a specific target.

1. Graffiti on freeway overpasses, public phones, etc.
2. "Punk Rock" or gang graffiti, even if accompanied by a swastika.
3. Interracial crimes, such as robbery, assault, or rape, which are motivated by factors other than race, ethnicity, religion, or sexual orientation.
4. Intragroup acts, regardless of graffiti; this includes gang graffiti and other gang acts.
5. Name calling and epithets not accompanied by assault, widespread among youth, are not considered Hate Crimes.

6. KKK, Nazi, or other Hate Crime rallies, leafletting, or recruiting drives are not Hate Crimes.

C. A reportable incident is any non-criminal act directed at any person or group based upon race, religion, ethnic background, or sexual orientation.

#### IV PROCEDURE

A. The investigation of Hate Crimes is the responsibility of the Fremont Police Department. Every employee should be sensitive to the feelings, needs, and fears that may be present in the community as a result of acts of this nature. The primary personnel responsible for investigating crimes or incidents of this nature are:

1. Patrol Section - Preliminary investigation of crimes or incidents, evidence collection, and where appropriate, the arrest of the responsible.
2. Investigative Section - Follow-up investigation of crimes, arrest of responsible, filing of complaints, and intelligence analysis.
3. Administrative Services Division - Community Liaison, resolution of appropriate non-criminal Hate Violence incidents, records maintenance, and appropriate Department and public training.

B. All Hate Crimes or Reportable Incidents shall require dispatch of a Patrol Officer to the scene. Response to all such reports will be priority 2 unless the criminal act qualifies as a priority 1 response as outlined by department procedures.

1. When the assigned officer arrives on the scene and determines that the crime or incident may be hate motivated, the officer shall conduct a thorough investigation. In addition the officer shall:

- a. Contact a field supervisor;
  - b. Complete a Crime Report.
  - c. Route copies of the report to:
    1. The Community Relations Unit/Victim Services;
    2. Intelligence Officer;
    3. Operations Division Deputy Chief;
    4. Administrative Services Division Deputy Chief;
    5. Chief of Police.
2. Patrol Field Supervisor shall:
  - a. Verify the crime or incident is hate motivated;
3. The Intelligence Officer shall:
  - a. Assist in both investigations and prevention of Hate Crimes by providing appropriate information to Patrol and Investigations Units;
  - b. Review all reports of Hate Crimes or incidents with related analysis to detect patterns, suspects, or the participation of organized groups;
  - c. Maintain liaison with Federal, State, local, and private intelligence agencies and, where appropriate, exchange information;
  - d. Notify the Chief of Police, Division Chiefs, and Watch Commanders of patterns or anticipated movement of hate groups.

4. The Community Relations Unit shall:
  - a. Conduct public meetings, meet with neighborhood groups, residents in target areas, and other groups to allay fears, reduce the potential for counterviolence, provide safety and protection information and related programs.
  - b. Assist victims and their families when appropriate;
  - c. Establish liaison with formal minority organizations and leaders;
  - d. Maintain a record of all Hate Crime related reports for statistical purposes;

C. Reporting

1. All reports of Hate Crimes shall be classified by the appropriate code section followed by the words " Hate Crime," ie., 242 P.C. Battery-Hate Crime, 245 P.C. Assault with a Deadly Weapon-Hate Crime, 594 P.C. Vandalism-Hate Crime, etc..
2. Report Review will ensure that a copy of all Hate Crime reports are forwarded to the appropriate personnel.



# County of San Diego

JERRY CHAGALA  
DIRECTOR  
(619) 694-2348

HUMAN RELATIONS COMMISSION

RON ROCKWELL  
CHAIR

5555 OVERLAND AVE, O-370, SAN DIEGO, CALIFORNIA 92123-1294

February 3, 1989

TO: Lloyd M. Harmon, Jr.  
County Counsel

FROM: Jerry Chagala, Director  
Human Relations Commission

## REQUEST FOR COUNTY COUNSEL OPINION

On February 9, 1988, the Board of Supervisors directed the Human Relations Commission to establish a "registry" for documenting and compiling statistics on "hate crimes" committed in San Diego County. Local law enforcement agencies were specifically mentioned in the Board action as a major source of information for the Hate Crimes Registry.

After a considerable amount of work, a system is in place for law enforcement agencies to identify, collect and convey information on "hate crimes" to the Commission through the Automated Regional Justice Information System (ARJIS).

A problem has developed, however, due to the fact that some of the information needed for the Registry is found only in the narrative section of the "Crime/Incident Report" (ARJIS 2) form, and, therefore, is not entered into the computer. The narrative must be manually analyzed in order to obtain this information. Law enforcement agencies are reluctant to perform this analysis due to the cost involved, and equally reluctant for Commission staff to do the analysis because of concerns about the confidentiality of crime report information.

In a meeting of the Police Chiefs' Association on February 1, 1989, a decision on sharing crime reports with the Human Relations Commission was with-held pending an opinion from the Attorney General's office on the legality of sharing such information.

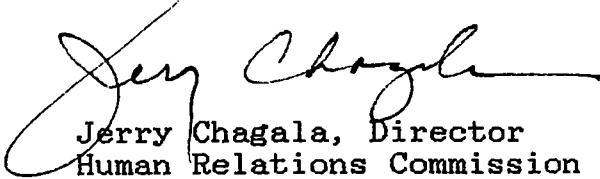
In a telephone conversation with Marty Mercado of the AG's office on February 2, 1989, I was informed that: 1) The Commission is not authorized to request an AG opinion; we must submit such a request through County Counsel, and 2) The AG's office is not likely to provide an "opinion" in this case, since the law gives considerable latitude to enforcement agencies in deciding whether the "public benefit" will be served by the sharing of such information. Ms. Mercado also indicated that a County ordinance could be enacted which would facilitate the sharing of crime reports with the Commission by placing certain limitations on the use of the information.

The situation described above suggests the following questions:

1. Can local law enforcement agencies legally share crime report information with the Human Relations Commission for the purpose of operating a "Hate Crimes Registry?"
2. If so, does such information, in the hands of the Commission, become "public information?"
3. Would the sharing of crime report information on a "pre-trial" basis create prosecution difficulties for the District Attorney?
4. Should County Counsel request an Attorney General's opinion on the legality of sharing crime report information with the Commission? (Given the fact that this was stated by the Police Chief's Association as a necessary condition for the sharing of such information.)
5. Should the County of San Diego enact an ordinance which would facilitate the sharing of crime report information with the Human Relations Commission?

Please assign a high priority to this request. There is a strong interest on the part of the Board, the public, the media, and the Commission in having the Hate Crimes Registry operational as soon as possible.

Thank you.



Jerry Chagala, Director  
Human Relations Commission

cc: Supervisor Leon L. Williams  
David Janssen, Assistant CAO  
Marty Mercado, Attorney General's Office  
Vince Jimno, Chair, Police Chief's Association  
Ron Rockwell, Chair, Human Relations Commission  
Herb Christ, Chair, HRC Law Enforcement Sub-committee